

Remarks:

In reply to the Office Action of June 26, 2008, and in particular to the Restriction/Election requirement, Applicant provisionally elects the claims of Group I. All claims that are not directed to Group I have been cancelled. Applicant reserves the right to file one or more divisional applications to Groups II – V.

To the extent that the applicant is required to elect between sub-groups Ia and Ib, applicant provisionally elects the claims of sub-group Ia, with traverse, and requests reconsideration of any requirement to elect between sub-groups Ia and Ib. Both sub-groups Ia and Ib relate to the same inventive concept, namely an isogenic panel of cell lines. Sub-group Ia relates to a method of using the isogenic panel of cell lines, while sub-group Ib relates to the panel of cell lines itself. The narrow and overlapping focus of the claims of sub-groups Ia and Ib would not represent a searching difficulty for the Examiner. Reconsideration and withdrawal of any requirement to elect between sub-groups Ia and Ib is thus requested.

Turning to the Species Election requirement, applicant provisionally elects breast cancer cells. Applicant believes the disclosure of the present application is also enabling for uterine cancer cells, and thus reserves the right to include a dependent claim to uterine cancer cells in the event that a generic claim is found to be allowable.

Applicant specifically traverses the species election requirement as it may pertain to claim 12, as amended, and requests reconsideration and withdrawal of, or modification of that species election requirement. The amendment to claim 12 is supported by page 3, lines 11-25 of the specification. Claim 12 is directed to a panel of cells, the cells being composed of multiple cell strains cultured from a single individual. The multiple cell strains effectively form necessary components or elements of the panel. The cell strains, when included in the panel, do not represent individual "species" as they are NOT alternative forms of the invention. The entire point of the invention claimed in claim 12 is to provide a single panel composed of multiple cell strains that can be used to define a treatment regimen. The multiple cell strains existent on a single panel are limited to an original drug-sensitive control cell line and derivative cell strains stemming from the original cell line that have been selected for resistance to various known chemotherapy agents. The panel of cell strains is then used to define a treatment regimen, based on the level of cross

resistance of the panel members to other drugs. Were the claim to be limited to a single cell strain, it would no longer define a panel, and the invention would essentially lose its effectiveness.

The invention as currently defined by claim 12, as amended, does not present any particular difficulty in searching, since the point of the invention is to provide a single panel composed of multiple related cell strains derived from an isogenic source. It should not be necessary for the Examiner to conduct a search directed to the individual cell strains, since the essence of the invention relates to the assembly of multiple cell strains on a single panel. Novelty is not being asserted as to the individual cell strains. Thus, by analogy, the invention is composed of multiple components forming a novel assembly, for which patentability is asserted only with respect to the novel assembly, not each of the individual components. Thus, the Examiner is NOT required to search for each of the individual components, but rather for products or devices that are similar to the asserted novel assembly. Applicant requests that the requirement for species election as to claim 12 be withdrawn.


A phone conference was held between the subscribing attorney to the Examiner on August 11, 2008, and again on August 20, 2008, to discuss the species election requirement relating to claim 12. The subscribing attorney wishes to thank the Examiner for the assistance provided to better focus the terminology of claim 12, which is also reflected in the amendments to claims 1 and 15, so that the species election requirement may be eliminated. The subscribing attorney would welcome any further conference the Examiner feels could expedite the prosecution of the case.

Dated: \_\_\_\_\_

8/20/08

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